

Docket No.: 1614.1115

Serial No. 09/767,721

**REMARKS**

In accordance with the foregoing, claims 1 and 2 have been amended to change "properity" to - - propriety - - , consistent with a communication to the Examiner by email of March 17, 2005, but which was not acknowledged in the subject action mailed March 22, 2005.

Further, claims 2-5 have been amended to overcome the rejection under 35 U.S.C. § 101 at pages 2-3 of the action, consistent with the Examiner's suggestion to overcome the specified rejection.

Further, various of the claims have been amended to improve form and to clarify salient features of the invention and to distinguish patentably over the art rejections, as hereinafter explained. Particularly, independent claims 1-7, 9-11 and 13 have all been amended to clarify the alternative processing functions performed when a license is determined to be valid or, alternatively, not determined to be valid.

No new matter is presented and, accordingly, approval and entry of the foregoing amendments are respectfully requested.

**PAGE 2: REJECTION OF CLAIMS 2-5 UNDER 35 U.S.C. §101**

The rejections are respectfully traversed.

Particularly, the rejected claims 2-5 have been amended to recite the practice of the accounting method " - - via a computer - - and which is submitted to afford a technological basis to satisfy 35 U.S.C. §101.

The Examiner's helpful suggestion is acknowledged and appreciated; nevertheless, it is submitted that the Amendment now made fulfills the same purpose and should achieve the same result.

**PAGE 3: REJECTION OF CLAIMS 1 AND 2 FOR ANTICIPATION UNDER 35 U.S.C. § 102 (e) BY MICHEL ET AL. (USP 5625690; AND****PAGE 4: REJECTION OF CLAIMS 3-13 UNDER 35 U.S.C. § 103 (A) OVER MICHEL ET AL. IN VIEW OF TASKETT (USP 5991748)**

The foregoing rejections are respectfully traversed.

Michel et al., the sole reference relied on in the anticipation rejection of claims 1 and 2 and relied on in combination Taskett in the rejection of claims 3-13, fails to teach the common recitations of claims 1 and 2 at col. 4, lines 55-56, col. 8, lines 14-32 and col. 5, lines 4-29 of

Docket No.: 1614.1115

Serial No. 09/767,721

Michel et al., cited in support thereof. Indeed, there is no apparent correlation between the claim terminology and the disclosure of the reference.

More particularly, in the reliance on Michel et al. in the rejection of claims 1 and 2, the Action recites particularly, the portion of the reference at col. 8, line 32 of:

(b) confirming property (sic- propriety) of the reported registration certification in said accounting server, and performing fee charging...(col. 8, lines 14-32).

It is submitted that Michel et al. merely discloses methods for fee charging and not of the claimed processing functions of the invention, as hereinabove explained.

With regard to the rejection of claims 3-13 at page 4 of the Action, that same above observation is applicable.

It furthermore is submitted that Michel et al. fails to teach the aforesaid features of alternative processing in the event a license file is determined to be valid versus when a license file is not determined to be valid, as set forth in the newly introduced limitations in all of the pending claims -- i.e.,:

when access is made to the contents, a license file in the terminal device is referred to, and, when the license file is determined to be valid, access to the contents is continued without accessing the accounting server; and

when the license file is not determined to be valid, access to the accounting server is carried out, notification of charging is made to the accounting server and, after the completion of the charging, access to the contents is continued.

Taskett, relied upon in combination with Michel et al., is expressly conceded at page 4 of the Action as not disclosing "enabling the access to the contents after performing fee charging when the condition for accessing the contents is not satisfied".

The Examiner then alludes to Taskett constituting "an analogous case involving access to cellular phone use, ...[in that]...Taskett does disclose fee charging on a failed condition.... (Action at page 4)

Particularly, the Examiner relies only on the Examiner's unsubstantiated contention that the system and method of the invention are analogous to the cellular phone system of Taskett since significantly different technologies clearly are involved, and between Taskett and the claimed invention herein. Indeed, the Action fails to advance any explanation of how one would borrow from the cell phone technology to address a solution for a requirement in a system of the

Docket No.: 1614.1115

Serial No. 09/767,721

present invention. Clearly, the requirements to support the obviousness rejection set forth in MPEP 2143-2143.03 have not been satisfied and the rejection should be withdrawn.

It is respectfully submitted that no *prima facie* demonstration of obviousness of the combination of Taskett with Michel et al. has been set forth in the Action in the referenced portion at page 4 or in the contentions at pages 5 and 6 and, hence, for these additional reasons, the combination of Michel et al. with Taskett is inadequate to support the rejection of claims 3-13.

### CONCLUSION

It is respectfully submitted that the foregoing has demonstrated that the pending claims patentably distinguish over the references of record, taken singularly or in any proper combination, and, there being no other objections or rejections, that the application is in condition for allowance, which action is earnestly solicited.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

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Date: July 22, 2005

By: \_\_\_\_\_

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